FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.7794 of 2006

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.Prakash Shah i/by M/s.PDS Legal for petitioner.
Mr.Y.R.Mishra for respondents.

CORAM : H.L GOKHALE &
J.P.DEVADHAR, JJ.

DATED : 29th November 2006

P.C. :

1. Heard the learned Counsel for the parties.

2. Rule. Rule is made returnable forthwith. Mr.Mishra waives service for the respondents.

3. The Appeal filed by the petitioner under the Customs Act has been dismissed on the ground that there is no sufficient explanation to justify condonation of delay of 137 days in preferring

the Appeal. The explanation given was that some other manufacturers similarly placed had approached the Gujarat High Court and that is how the petitioner preferred to wait and thereafter, on instructions, filed the Appeal against the order passed by the Commissioner of Customs (Appeals).

4. Mr.Mishra appearing for the respondents has opposed the application and submitted that one cannot accept this explanation to condone delay. We quite see the force in the submission of Mr.Mishra. Yet, with a view not to deny a remedy which was otherwise available to the petitioner, and for which it has some explanation, we set aside the order dated 7th August 2006 and restore the Appeal to the file of the Tribunal. This will be done on payment of costs of Rs.3,000/-, to be paid within two weeks to the

Commissioner of Customs.

5. Rule is made absolute in the aforesaid terms. No costs.

(H.L.GOKHALE, J.)

(J.P.DEVADHAR, J.)